IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.4760 OF 2006

M/s.Metallica Industries Ltd. ..Petitioner.

V/s.

Union of India & Anr. ..Respondents.

Mr.Satish Shah for petitioner.

Mr.A.S.Rao for respondent No.1.

Mr.Vinay Sonpal, A.G.P. for respondent No.2.

CORAM : H.L.GOKHALE AND
J.P.DEVADHAR, JJ.

DATED : 1ST DECEMBER, 2006.

P.C. :-

. Heard Mr.Shah in support of this petition. Mr.Sonpal appears for the respondent No.2, the concerned Deputy Commissioner of Sales Tax. The liability to the tune of more than Rs.53 lakhs towards the sales tax dues has been finalised upto the stage of Tribunal on the petitioner. The properties of the petitioner have been attached and now notice has been issued to auction the same. It is at this stage, the petition has been filed. Part of the demanded amount has been paid by the petitioner and the request of Mr. Shah is that the respondent should consider this aspect including the fact that the factory of the petitioner has been closed long back.

2. Alternatively, Mr.Shah submitted that the petitioner would move a rectification application with the Deputy Commissioner of Sales Tax i.e. respondent No.2 within 2 weeks and makes a further request that the Officer should hear the application and then pass a reasoned order on the rectification application.

3. Mr.Sonpal on instructions states that the respondents are agreeable to consider such an application when made, on its own merits. He further states that during the pendency of the application, the respondents will not proceed with the auction though the attachment will continue. In view of this request of Mr.Shah and statement of Mr.Sonpal, the petition can be disposed of by permitting the petitioner to make an application within 2 weeks and directing the respondent No.2 to decide the application within 4 weeks thereafter.

4. The decision of the respondent No.2 will not be enforced for a period of 4 weeks from the date on which the order is served on the petitioner.

5. Petition is disposed of.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)